

Ordinance Committee
Monday, October 30, 2023 at 5:30PM
Spark Space at 585 Pine St. and Remote via Zoom

DRAFT MINUTES

Members Present: Councilor Traverse (Chair), Councilor Carpenter, Councilor Hightower, Councilor Shannon

Staff Present: Kim Sturtevant (Assistant City Attorney), Darren Springer (BED General Manager), Chris Burns (BED)

Public Present: Ashley Adams, Greg Hancock, Jim Goldsmith, Melo Grant, Peter Duval, Patti Wehman, Sharon Bushor, Tom DiChristopher, Brynn Martin, Dylan Giambatista, Jack Hanson, Erik Lahr, Karen Vastine, Kim Hornung-Marcy, Catherine Bock, Elizabeth Palchak, Luce Hillman, Steve Goodkind, Nick Persampieri, Mark Barlow, Spencer

Meeting returned from recess at 5:30 PM.

1. Adopt the Agenda

1.01 Adopt the Agenda

Motion to Adopt Agenda as drafted.

Motion by Councilor Shannon, Seconded by Councilor Carpenter.

Final Resolution: Motion Passes

Yes: Unanimous

2. Adopt Draft Minutes from September 21

2.01 Adopt Draft Minutes from September 21

Motion to Adopt Minutes from September 21, 2023.

Motion by Councilor Shannon, Seconded by Councilor Carpenter.

Final Resolution: Motion Passes

Yes: Unanimous

3. Public Comment

3.01 Public Comment

Public Comment was also taken on the October 16th meeting of the Committee. Only new comments from October 30 are recorded here. Public Comment was taken after Councilor Discussion.

Nick Persampieri: I am disappointed that the Committee has not stricken certain measures. I am concerned that the State process is not going to fix everything and answer our questions. The State is going to come up with a sliding scale of credits. I think we should consider adjusting this ordinance once the State has put out their work. It may have to go back to a vote by the voters. The City's climate policy is fundamentally flawed and should focus on greenhouse gas

emissions rather than fossil fuel use. Electrification and geothermal are the way to go and the other measures aren't as good. There is some good language that will discourage those other measures.

Connor Wertz: I work for 350VT and live in Ward 2. I have concerns similar to Nick Persampieri. The State is trying to move away/phase out certain fuels such as renewable natural gas, but new buildings are going to continue to be built with these fuels in that time period. Burlington will fall behind other climate leaders if we end with just this ordinance.

Peter Duval: The Committee has avoided talking about McNeil. Where is the impact analysis on the steam pipe project? Darren Springer encouraged the Committee to link the ordinance with State legislation. What will happen when biomass is examined by the PUC? We should reject this ordinance and send it back to the TEUC. A strong building code would be better. We heard at City Council that the hospital would not consider the steam pipe project were it not for the carbon fee ordinance. It is bad government to impose an ordinance on the hospital to bully them into a steam pipe project.

Sharon Bushor: There is a time limit of one year for large building owners to use half their carbon fee, is there a reason for that? I don't know the rationale for this. I think every building should be evaluated on its own, but I still don't care for the credit system. Was there ever an analysis of the amount of money that this fee would generate? Is this a large quantity of money?

Jack Hanson: The credit system is definitely improved by the amendments today, but the question is if these improvements were going to be completed anyway. If so, it undercuts the compliance mechanism of having the fee. I think these sections should go just be deleted and have all the money go to low-income folks.

4.0 Carbon Impact Fee Discussion

4.01 Carbon Impact Fee Discussion

Councilor discussion began with a discussion of a draft ordinance labelled "Carbon Fee Draft ORD10.25.23". This draft is available on CivicClerk.

Councilor Traverse asked if there was consensus on section 8-76. All councilors were in agreement except for some wording changes from Councilor Hightower.

Darren Springer explained the redline changes in 8-77. The ordinance definition for "clean energy" now relies on 30 V.S.A. § 8127(d) and (e). He also explained that the Technical Advisory Group of the PUC advises on electrification and provides feedback for clean heat measures for the state. If a fuel meets the clean energy requirements of the PUC then it fits the criteria of the City ordinance.

Councilor Hightower proposed having three categories of heating systems: fossil fuel-based, renewable-based, and 'low-carbon'-based. She used Nick Persampieri's definitions offered in

his redlined version of the ordinance. The ‘low-carbon’ category would include solar water heating systems and electric heat pumps.

Councilor Traverse offered a similar framework: fossil fuel-based, non-combustion-based, and renewable fuel-based. Renewable fuels for this this would be wood, renewable natural gas, and the like. Non-combustion would be geothermal or other electric systems.

Darren Springer noted that these frameworks would differ from the state construct and would increase administrative work for the departments.

Councilor Carpenter said that if an owner or builder did not use electric or some other encouraged heating system, that there would be a requirement for some kind of analysis or report to the City departments about why the owner or builder did not use one of the encouraged heating systems.

Councilor Shannon added that most people want to move toward heat pumps or geothermal already and has a concern that owners might be penalized for having a backup system that is not fully electric, but is not used often.

Chris Burns (BED Staff) said that BED staff work with the Technical Review Committee so they are aware of what systems are being used in new construction and work with developers. Most new buildings in the last few years are primarily heat pump based because they are a low capital investment while also offering cooling. Most backups are electric resistance but some use fossil backups. Champlain College and Hula both have gas backups to keep the buildings from freezing in case of an emergency, but neither use the backups.

Motion to change “Clean Energy” as defined in 8-77(c) to “Renewable Energy” throughout the draft ordinance.

Motion by Councilor Traverse, without objection.

Final Resolution: Motion Passes

Motion to modify 8-77(c) to read: “”Renewable energy” shall include all of the electrification, geothermal, and solar measures, and renewable fuels included in (d) and (e) of 30 V.S.A. § 8127.”

Motion by Councilor Traverse, without objection.

Final Resolution: Motion Passes

Motion to add to section 8-78(a): “If an applicant utilizes a primary thermal energy system that relies on renewable energy other than electrification, geothermal, or solar measures, the applicant must certify prior to receiving a permit that the use of electrification, geothermal, or solar measures is not technically feasible, is economically unduly burdensome, is not permitted by applicable regulation, or is not feasible for other similar reasons demonstrated to the satisfaction of the Department of Permitting and Inspections. If an applicant utilizes a non-primary thermal energy system that relies on renewable energy other than electrification, geothermal, or solar measures, the applicant must provide the Department of Permitting and

Inspections a written explanation of the reason for not using a thermal energy system that relies on electrification, geothermal or solar measures.”

Motion by Councilor Traverse, without objection.

Final Resolution: Motion Passes

Darren Springer explained that the exception in 8-79(c)(3) was intended to reward early adopters of electrified or otherwise renewable thermal energy systems by compensating owners on other systems that may be subject to the fee.

Motion to modify 8-79(c)(3) to read: “If an applicant with one or more buildings is seeking a permit pursuant to this chapter, and is already using one or more thermal energy systems that rely on ~~clean~~ renewable energy, the applicant may apply for a credit toward any carbon pollution impact fee equal to the carbon value of the ~~clean~~ renewable energy used for any thermal energy system permitted by the City of Burlington since January 1, 2024 and not regulated under this ordinance.”

Motion by Councilor Traverse, without objection.

Final Resolution: Motion Passes

Darren Springer clarified the intent 8-79(d)(i) is to encourage owners/builders of large buildings to use renewable energy systems not regulated by this ordinance (such as appliances) in any other Burlington building they own.

Motion to modify 8-79(d)(i) to read: “Half of the proceeds paid into the Clean Energy Fund by a large existing building applicant shall be available to the payor for projects to reduce greenhouse gas emissions at any site owned by the payor in the City of Burlington. The large existing building applicant must request these proceeds within one (1) year following payment of their carbon pollution impact fee, the proceeds may not be used to subsidize the cost of thermal energy systems regulated by this ordinance, and any proceeds not requested within that year shall be made available under subsection (iii).”

Motion by Councilor Traverse, without objection.

Final Resolution: Motion Passes

Motion to further modify 8-77(c) to read: ““Renewable energy” shall include all of the electrification, geothermal, and solar measures, and renewable fuels included in (d) and (e) of 30 V.S.A. § 8127. Renewable energy measures that do not rely on electrification, geothermal, or solar will be subject to the applicable requirements of section 8-78(a).”

Motion by Councilor Traverse, without objection.

Final Resolution: Motion Passes

Councilor Hightower asked about clarifying section 8-79(d)(i) to ensure that the half of the carbon fee that would be available to owners would be put to an adequate carbon reduction purpose. Councilor Hightower wanted some assurance that this section would continue the intent of the ordinance in reducing carbon emissions.

Motion to further modify 8-79(d)(i) to read: “Half of the proceeds paid into the Clean Energy Fund by a large existing building applicant shall be available to the payor for projects to reduce greenhouse gas emissions at any site owned by the payor in the City of Burlington. The large existing building applicant must request these proceeds within one (1) year following payment of their carbon pollution impact fee, the applicant shall demonstrate to the satisfaction of the Department of Permitting and Inspections that the proceeds will be used to meaningfully reduce greenhouse gas emissions, the proceeds may not be used to subsidize the cost of thermal energy systems regulated by this ordinance, and any proceeds not requested within that year shall be made available under subsection (iii).”

Motion by Councilor Traverse, without objection.

Final Resolution: Motion Passes

Darren Springer clarified that the carbon fee funds would have to be requested within a year, but the project does not have to be completed within a year. We want to make sure the money is being used either for this further encouragement or for low-income people. The fee range expectations are estimated at \$600,000 for a new, large, multifamily building that uses fossil fuels. For larger existing buildings it would be in the thousands to tens of thousands if they continued to use fossil fuels.

Councilor Hightower was interested in including that using the carbon fee credits have to be used in a 1 to 1 ration for carbon emissions. Currently, the amended ordinance only requires it to be to the satisfaction of DPI. Darren Springer said he supports the current language, but would be willing to work on wordsmithing the language.

Councilor Traverse brought back up if the Committee wanted reports crafted by DPI on the work for this ordinance. Councilor Carpenter agreed and thinks having records would help in drafting ordinances in the future. All councilors were in agreement and the language is forthcoming before the ordinance goes to the full Council.

Motion to approve the ordinance as amended and forward to the full Council for consideration.

Motion by Councilor Traverse, second by Councilor Carpenter

Yes: Councilors Traverse, Carpenter, and Shannon

Absent: Councilor Hightower

Final Resolution: Motion Passes

5.0 Adjournment

5.01 Adjournment

Motion to adjourn by Councilor Traverse, without objection.

Final Resolution: Motion Passes

The meeting was adjourned at 9:06 PM.